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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,900	10/31/2003	Richard Ortiz	200312283-1	2628

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
AUVE, GLENN ALLEN	

ART UNIT	PAPER NUMBER
2111	

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/698,900	ORTIZ ET AL.	
	Examiner	Art Unit	
	Glenn A. Auve	2111	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3-5,8,9,12,15 and 17-19* is/are rejected.

7)☒ Claim(s) *2,6,7,10,11,13,14,16,20 and 21* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1 August 2006 has been entered.

Claim Objections

2. Claim 13 is objected to because of the following informalities: in claim 13, line 5-6, "said power management events ignores said power management events..." should probably read "said power management events **filter** ignores said power management events...". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,4,5,8,12,15,18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagae, U.S. Pat. No. 5,151,992.

As per claim 1, Nagae shows a method for providing protected swapping of a peripheral component in a computer system comprising: determining a position of a first mechanical retention latch (fig.6,(71)), said first mechanical retention latch (50) having an open position and

a closed position and configured to communicatively couple to a computer expansion card slot; provided said first mechanical retention latch is in said open position, ignoring all power management events including preventing said computer system from powering up (fig.6,(75), where if the latch is in the open position the CPU determines that is the case and displays a message to that effect and instructs to power controller not to supply power to the system, see abstract and col.5, line 46 – col.6, line 23); and provided said first mechanical retention latch is in said closed position, allowing said computer system to accept power management events (fig.6 and abstract and cols. 5-6 as noted above). Nagae shows all of the steps recited in claim 1.

As for claim 4, the argument for claim 1 applies. Nagae also shows powering down said computer system to a sleep mode before determining a position of said first mechanical retention latch (abstract and cols. 5-6 as noted above, wherein the system is placed into a "sleep" mode in that it shuts down when the pack is removed and subsequent attempts to power the system up are either allowed or not depending on whether the pack is in place and the latch is closed or open). Nagae shows all of the steps recited in claim 4.

As for claim 5, the argument for claim 1 applies. Nagae also shows hot swapping an expansion card from said expansion card slot and determining said position of said first mechanical retention latch (abstract and cols. 5-6 as noted above). Nagae shows all of the steps recited in claim 5.

As per claim 8, Nagae shows a system for managing power in a computer system comprising: a mechanical retention latch (50) having an open position and a closed position configured to physically retain an expansion card in an expansion card slot; a position sensor for determining if said mechanical retention latch is in said open position or in said closed position (fig.6 and cols. 5-6 as noted above); and a power management events filter for ignoring power

management events based on said position of said mechanical retention latch wherein if said mechanical retention latch is in said open position, said power management events filter ignores said power management events to prevent powering up said computer system (fig.6,(75), where if the latch is in the open position the CPU determines that is the case and displays a message to that effect and instructs to power controller not to supply power to the system, see abstract and col.5, line 46 – col.6, line 23). Nagae shows all of the elements recited in claim 8.

As for claim 12, the argument for claim 8 applies. Nagae also shows that provided said mechanical retention latch is in said closed position, said power management module allows said computer system to accept power management events (fig.6 and cols. 5-6 as noted above). Nagae shows all of the elements recited in claim 12.

As per claim 15, Nagae shows a computer readable medium comprising executable instructions which, when executed in a processing system, causes the system to perform a method of controlling power management events comprising: receiving data corresponding to the position of a mechanical retention latch having an open position and a closed position; and provided said mechanical retention latch is in said open position, ignoring power management events and preventing said processing system from accepting power management events (fig.6, where if the latch is in the open position the CPU determines that is the case and displays a message to that effect and instructs to power controller not to supply power to the system, see abstract and col.5, line 46 – col.6, line 23). Nagae shows all of the elements recited in claim 15.

As for claim 18, the argument for claim 15 applies. Nagae also shows that said method is executed while said processing system is in a sleep mode (abstract and cols. 5-6 as noted above, wherein the system is placed into a "sleep" mode in that it shuts down when the pack is removed and subsequent attempts to power the system up are either allowed or not depending

on whether the pack is in place and the latch is closed or open). Nagae shows all of the elements recited in claim 18.

As for claim 19, the argument for claim 15 applies. Nagae also shows that said method is executed while hot swapping a component of said processing system (abstract and cols. 5-6 as noted above). Nagae shows all of the elements recited in claim 19.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 3,9, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagae in view of Grosser et al., U.S. Pat. No. 6,182,173 B1.

As for claims 3,9, and 17, the arguments above for claims 1,8, and 15, respectively, apply. Nagae does not specifically show receiving data from an optical device communicatively coupled to said mechanical retention latch for determining said position of said mechanical retention latch. Nagae does show a mechanical latch 50 and detecting the position of those

latches (as noted above). Grosser shows the use of an optical switch used to detect the position of a mechanical tab mechanism to determine whether it is in an open or closed position (abstract and claim 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to use an optical switch as shown by Grosser in the system of Nagae in order to provide a fast and reliable switch/detector system.

Allowable Subject Matter

8. Claims 2,6,7,10,11,13,14,16,20, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: The claims indicated as being allowable include limitations directed to the latch configured to couple to a PCI slot or a plurality of mechanical latches instead of just one. The prior art applied above does not show these limitations and it does not appear that such limitations would be obvious.

Response to Arguments

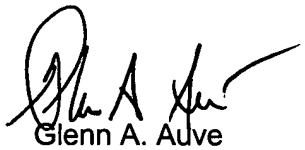
10. Applicant's arguments, see pages 8-10, filed 1 August 2006, with respect to the rejection(s) of claim(s) 1,2,4-8,10-16, and 18-21 under 35 USC 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Nagae as applied above.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn A. Auve whose telephone number is (571) 272-3623. The examiner can normally be reached on M-F 8:00 AM-5:30 PM, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (571) 272-3632. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Glenn A. Auve
Primary Examiner
Art Unit 2111

gaa
18 August 2006